

ASSEMBLY BILL

No. 254

Introduced by Assembly Member Montanez

February 4, 2003

An act to amend Section 10116.5 of the Insurance Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

AB 254, as introduced, Montanez. Disability insurance.

Existing law requires any disability insurance policy issued, amended, delivered, or renewed in California on or after January 1, 1999, that provides certain benefits under an employer-sponsored group plan for an employer subject to COBRA or an employer group for which the disability insurer is required to offer Cal-COBRA coverage, to offer former employees and their spouses and former spouses of employees or former employees the opportunity to continue benefits, as specified.

Whenever a premium charged to an employer for a specific employee or dependent eligible for continuation coverage is not adjusted for the age of the employee or dependent, existing law prohibits the rate for this continuation coverage from exceeding 213% of the applicable current group rate.

This bill would instead prohibit the rate from exceeding 102% of the applicable current group rate.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10116.5 of the Insurance Code is
2 amended to read:
3 10116.5. (a) Every policy of disability insurance that is
4 issued, amended, delivered, or renewed in this state on or after
5 January 1, 1999, that provides hospital, medical, or surgical
6 expense coverage under an employer-sponsored group plan for an
7 employer subject to COBRA, as defined in subdivision (e), or an
8 employer group for which the disability insurer is required to offer
9 Cal-COBRA coverage, as defined in subdivision (f), including a
10 carrier providing replacement coverage under Section 10128.3,
11 shall further offer the former employee the opportunity to continue
12 benefits as required under subdivision (b), and shall further offer
13 the former spouse of an employee or former employee the
14 opportunity to continue benefits as required under subdivision (c).
15 (b) (1) If a former employee *who* worked for the employer for
16 at least five years prior to the date of termination of employment
17 and is 60 years of age or older on the date employment ends is
18 entitled to and so elects to continue benefits under COBRA or
19 Cal-COBRA for himself or herself and for any spouse, the
20 employee or spouse may further continue benefits beyond the date
21 coverage under COBRA or Cal-COBRA ends, as set forth in
22 paragraph (2). Except as otherwise specified in this section,
23 continuation coverage shall be under the same benefit terms and
24 conditions as if the continuation coverage under COBRA or
25 Cal-COBRA had remained in force. For the employee or spouse,
26 continuation coverage following the end of COBRA or
27 Cal-COBRA is subject to payment of premiums to the insurer.
28 Individuals ineligible for COBRA or Cal-COBRA or who are
29 eligible but have not elected or exhausted continuation coverage
30 under federal COBRA or Cal-COBRA are not entitled to
31 continuation coverage under this section. Premiums for
32 continuation coverage under this section shall be billed by, and
33 remitted to, the insurer in accordance with subdivision (d). Failure
34 to pay the requisite premiums may result in termination of the
35 continuation coverage in accordance with the applicable
36 provisions in the insurer's group contract with the former
37 employer.



(2) The former employer shall notify the former employee or spouse or both, or the former spouse of the employee or former employee, of the availability of the continuation benefits under this section in accordance with Section 2800.2 of the Labor Code. To continue health care coverage pursuant to this section, the individual shall elect to do so by notifying the insurer in writing within 30 calendar days prior to the date continuation coverage under COBRA or Cal-COBRA is scheduled to end. Every disability insurer shall provide to the employer replacing a group benefit plan policy issued by the insurer, or to the employer's agent or broker representative, within 15 days of any written request, information in possession of the insurer *that is* reasonably required to administer the requirements of Section 2800.2 of the Labor Code.

(3) The continuation coverage shall end automatically on the earlier of (A) the date the individual reaches age 65, (B) the date the individual is covered under any group health plan not maintained by the employer or any other insurer or health care service plan, regardless of whether that coverage is less valuable, (C) the date the individual becomes entitled to Medicare under Title XVIII of the Social Security Act, (D) for a spouse, five years from the date on which continuation coverage under COBRA or Cal-COBRA was scheduled to end for the spouse, or (E) the date on which the former employer terminates its group contract with the insurer and ceases to provide coverage for any active employees through that insurer, in which case the insurer shall notify the former employee or spouse, or both, of the right to a conversion policy.

(c) (1) If a former spouse of an employee or former employee was covered as a qualified beneficiary under COBRA or Cal-COBRA, the former spouse may further continue benefits beyond the date coverage under COBRA or Cal-COBRA ends, as set forth in paragraph (2) of subdivision (b). Except as otherwise specified in this section, continuation coverage shall be under the same benefit terms and conditions as if the continuation coverage under COBRA or Cal-COBRA had remained in force. Continuation coverage following the end of COBRA or Cal-COBRA is subject to payment of premiums to the insurer. Premiums for continuation coverage under this section shall be billed by, and remitted to, the insurer in accordance with

subdivision (d). Failure to pay the requisite premiums may result in termination of the continuation coverage in accordance with the applicable provisions in the insurer's group contract with the employer or former employer.

(2) The continuation coverage for the former spouse shall end automatically on the earlier of (A) the date the individual reaches 65 years of age, (B) the date the individual is covered under any group health plan not maintained by the employer or any other health care service plan or insurer, regardless of whether that coverage is less valuable, (C) the date the individual becomes entitled to Medicare under Title XVIII of the Social Security Act, (D) five years from the date on which continuation coverage under COBRA or Cal-COBRA was scheduled to end for the former spouse, or (E) the date on which the employer or former employer terminates its group contract with the insurer and ceases to provide coverage for any active employees through that insurer, in which case the insurer shall notify the former spouse of the right to a conversion policy.

(d) (1) If the premium charged to the employer for a specific employee or dependent eligible under this section is adjusted for the age of the specific employee, or eligible dependent, on other than a composite basis, the rate for continuation coverage under this section shall not exceed 102 percent of the premium charged by the insurer to the employer for an employee of the same age as the former employee electing continuation coverage in the case of an individual who was eligible for COBRA, and 110 percent in the case of an individual who was eligible for Cal-COBRA. If the coverage continued is that of a former spouse, the premium charged shall not exceed 102 percent of the premium charged by the plan to the employer for an employee of the same age as the former spouse selecting continuation coverage in the case of an individual who was eligible for COBRA, and 110 percent in the case of an individual who was eligible for Cal-COBRA.

(2) If the premium charged to the employer for a specific employee or dependent eligible under this section is not adjusted for age of the specific employee, or eligible dependent, then the rate for continuation coverage under this section shall not exceed ~~243~~ 102 percent of the applicable current group rate. For purposes of this section, the "applicable current group rate" means the total

1 premiums charged by the insurer for coverage for the group,
2 divided by the relevant number of covered persons.

3 (3) However, in computing the premiums charged to the
4 specific employer group, the insurer shall not include
5 consideration of the specific medical care expenditures for
6 beneficiaries receiving continuation coverage pursuant to this
7 section.

8 (e) For purposes of this section, “COBRA” means Section
9 4980B of Title 26 , Section 1161 and following of Title 29 , and
10 Section 300bb of Title 42 of the United States Code, as added by
11 the Consolidated Omnibus Budget Reconciliation Act of 1985
12 (P.L. 99-272), and as amended.

13 (f) For purposes of this section, “Cal-COBRA” means the
14 continuation coverage that must be offered pursuant to Article 1.7
15 (commencing with Section 10128.50), or Article 4.5
16 (commencing with Section 1366.20) of Chapter 2.2 of Division 2
17 of the Health and Safety Code.

18 (g) For the purposes of this section, “former spouse” means
19 either an individual who is divorced from an employee or former
20 employee or an individual who was married to an employee or
21 former employee at the time of the death of the employee or former
22 employee.

23 (h) Every group benefit plan evidence of coverage that is
24 issued, amended, or renewed after January 1, 1999, shall contain
25 a description of the provisions and eligibility requirements for the
26 continuation coverage offered pursuant to this section.

27 (i) This section shall take effect on January 1, 1999.

